

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1062 (Delegate K. Young)  
Health and Government Operations

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State Board of Morticians and Funeral Directors - Funeral Establishments - Care  
and Custody of Human Remains

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This bill clarifies the beginning and the end of “care and custody” responsibilities for a funeral establishment for the final disposition of human remains through interment, cremation, and final disposition outside the State.

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Fiscal Summary

**State Effect:** The bill clarifies current practice and, thus, has no material impact on State finances.

**Local Effect:** None.

**Small Business Effect:** Potential minimal. The bill clarifies current practice, and establishes more concrete statutory language regarding the beginning and end of a licensee’s responsibilities for the care and custody of human remains and, thus, has no material impact on small businesses. The bill’s clarifying language may protect licensees from liability and result in potential savings.

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Analysis

**Bill Summary:** “Care and custody” is defined as the responsibility, in accordance with all applicable laws, to carry out the decisions made by an individual with the right to arrange for final disposition of human remains. Care and custody responsibilities for a funeral establishment begin when the funeral establishment removes the remains from the place of death, no matter the type of disposition.

If final disposition is to be interment, care and custody responsibilities end when the remains are transferred by the funeral establishment to a cemetery for internment and are removed from the transport vehicle at the cemetery.

If final disposition is to be cremation, care and custody responsibilities end when the remains are transferred to and received by a permitted crematory.

If the final disposition of human remains is to take place outside of Maryland, as indicated on a State death certificate, care and custody requirements end when the remains are transferred to a common carrier or out-of-state funeral establishment.

**Current Law:** Mortuary science practitioners are licensed by the State under the Health Occupations Article. The State Board of Morticians and Funeral Directors protects the public's health and welfare through proper credentialing, examination, licensure, and discipline of licensed morticians and funeral directors, apprentices, surviving spouses, executors, pre-need trustees, corporations (under limited circumstances), and funeral establishments. The board also permits mortuary transport services and registers mortuary transporters. A mortuary transport service must have a board-issued permit, and a transporter must be registered before removing or transporting human remains in Maryland. Additionally, a mortuary transportation service must have required documentation and may not sign a death certificate. Funeral establishments are exempt from transport service registration requirements. Either a funeral establishment can send its own transportation to pick up and remove a body, or a funeral establishment can call a registered mortuary transportation service to move the body. Mortuary transportation services may not initiate transport independently.

While the body of a decedent is in the custody of a funeral establishment or crematory, with certain exceptions, the body may not be transported for preparation or storage to a facility that is not within the jurisdiction of the State, licensed by the board, or permitted by the Office of Cemetery Oversight.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2015  
md/jc Revised - Correction - March 5, 2015

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